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A PROFESSIONAL CORPORATION

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TENNESSEE

MEMPHIS

NASHVILLE CHATTANOOGA

KNOXVILLE

JOHNSON CITY

October 2, 2000

Mr. L. Vincent Williams
Office of the Attorney General, Consumer Advocate Division
425 5th Avenue North
Cordell Hull Building
Nashville, TN 37243-0500

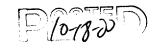
Re: TRA Docket No. 00-00562 - United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Dear Vincent:

This letter is in response to your August 3, 2000 letter requesting information regarding the franchise agreements with Kingsport, Bristol, and Morristown, currently pending for TRA approval.

The first two information requests asked UCG to provide: (1) "all information in UCG's or Atmos' possession, or of which UCG or Atmos has knowledge that shows the cost the city governments incur because of UCG's franchised operations," and (2) "any study made by, or on behalf of, UCG or Atmos to estimate the cost UCG or Atmos causes any city government to incur in any state," as well as "all information that may show any relationship between a city's costs and any present or proposed franchise fees or UCG revenues." Neither UCG nor Atmos has made any study of the costs city governments incur due to UCG's franchised operations. Furthermore, neither UCG nor Atmos has any information in its possession, and has no knowledge of any information, that would show any relationship between a city's costs and any present or proposed franchise fees or UCG revenues.

In an effort to fully comply with your request, UCG forwarded your letter to the appropriate government officials in Kingsport, Bristol, and Morristown, and have asked them to provide any information they have responsive to your request. To date, the only response we have received is a letter from the City of Kingsport, which is attached. Bristol and Morristown have yet to respond. As soon as we receive a response from them, we will immediately forward that information to you.



Mr. L. Vincent Williams October 2, 2000 Page 2

As stated in the attached letter from the City of Kingsport, the franchise agreement between Kingsport and UCG does not impose a franchise fee, but merely gives the city the option to impose an unspecified franchise fee in the future. The letter confirms that Kingsport has no intention of enacting a franchise fee at this time, but simply wanted to reserve the right to do so in the future. If Kingsport chooses in the future to exercise its option to impose a franchise fee, the franchise fee would have to be approved by the TRA pursuant to Tenn. Code Ann. § 65-4-107. For these reasons, we would request that the Kingsport franchise be approved separately from the Bristol and Morristown franchises, which currently impose franchise fees. UCG would agree that should Kingsport chose to exercise its option to impose a fee in the future, that fee must receive TRA approval before becoming effective.

UCG's response to all the remaining information requests in your August 8, 2000 letter is attached. We have made a diligent effort to answer the questions thoroughly and to the best of our knowledge, and we trust our responses are sufficient. However, please do not hesitate to contact me if you have any questions, or require further information.

Sincerely,

Joe Alconner

JAC:MSK:klc Enclosures

cc.

Mr. David Waddell Mr. Bichard Collier Mr. L. Vincent Williams October 2, 2000 Page 3

> bcc: Mr. Tom Blose Mr. Mark Thessin Mr. Jeffrey Perryman

co Mike Billingslock

United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Request for Information:

3. Please provide all information that may show any relationship between a city's costs and any present or proposed franchise fees or UCG revenues. Please include in this information the maximum annual franchise fees that would be paid under each of the proposed agreements based on 1) 1999 calendar year sales and 2) 1999 calendar year sales adjusted to show the effects on the fees if natural gas prices were two times as much as they were in 1999.

Response:

The question of the relationship between costs and the fees will be answered in the responses to Requests for Information 1 and 2 when the information is provided by the cities.

The following are the approximate fees to be paid under the proposed agreements:

	1999 REVENUE	% FEE	TOTAL FEES	PGA X 2
Bristol	\$5,777,424	6%	\$346,645	\$537,435
Kingsport	\$6,908,676	0%	\$0	\$0
Morristown	\$8,721,353	5%	\$436,067	\$700,718

United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Request for Information:

4. Please provide the statutory authority for a city to charge UCG a franchise fee based on a percentage of revenues.

Response:

Tenn. Code Ann. § 65-4-105(e) implicitly recognizes the authority of a city to charge franchise fees in general. Specifically, § 65-4-105(e) provides:

Any franchise payment or other payment for the use of public streets, alleys or other public places or any license, privilege, occupation or excise tax payment, which after February 24, 1961 may be made by a utility to a municipality or other political subdivision, except such taxes as are presently provided for under existing statutes and except such franchise payment or other payments as are presently exacted from the utility pursuant to the terms of any existing franchise or other agreement, shall, insofar as practicable, be billed pro rata to the utility customers receiving local service within the municipality or political subdivision receiving such payments, and shall not otherwise be considered by the authority in fixing the rate and charges of the utility.

Furthermore, Tenn. Code Ann. § 65-26-101, as interpreted by the Tennessee Supreme Court, specifically gives cities the authority to charge gas companies a franchise fee based on a percentage of revenues. Section 65-26-101 gives gas companies the power to lay pipes through the public streets

provided further that no one of the streets or alleys shall be entered upon or used by any corporation for laying pipes or conductors, or otherwise, until the consent of the municipal authorities shall have been obtained, and an ordinance shall have been passed prescribing the terms on which the same may be done

In Lewis v. Nashville Gas & Heating Co., 40 S.W.2d 409 (Tenn. 1931), the Tennessee Supreme Court held that one of the terms or conditions cities can impose on the granting of a franchise under § 65-26-101 is a gross receipts franchise fee. *Id.* at 411. The court held that § 65-26-101 gives cities the right to negotiate a contract, in their proprietary capacity, that requires the gas company to pay a franchise fee based on gross revenues. *Id.* at 412-13. Specifically, the Tennessee Supreme Court held that:

One of the conditions which a municipal corporation can lawfully attach to the grant of a franchise is the payment of money; and the payment need not be such as is imposed upon all others similarly situated, as in the case of a tax, or the equivalent of the cost of inspection and replacement, as in the case of a license fee

imposed under the police power, but may be a definite sum arbitrarily selected, and if the company does not wish to pay it it need not accept the franchise.

Id. at 413.

United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Request for Information:

5. If UCG supports the proposed franchise fees as being legal, please provide the rationale that differentiates UCG's situation from the appellants in *City of Chattanooga v. BellSouth*.

Response:

The Tennessee Court of Appeals in *BellSouth* did not overrule the two Tennessee Supreme Court holdings that specifically authorize cities to charge franchise fees based on a percentage of revenues. In *Lewis v. Nashville Gas & Heating Co.*, 40 S.W.2d 409 (Tenn. 1931), the Tennessee Supreme Court held that cities can negotiate franchise agreements that impose a franchise fee based on a percentage of gross revenues because in negotiating such agreements, the cities are acting in their proprietary capacity. *Id.* at 412. It is only when cities act in their governmental capacity that their actions must be reasonable and must not exceed the specific taxing and police power authority conferred upon them by the state legislature. *Id.*

In Nashville Gas & Heating Co. v. City of Nashville, 152 S.W.2d 229 (Tenn. 1941), the Tennessee Supreme Court again reaffirmed a city's right to contract, in its proprietary capacity, for franchise fees based on a percentage of revenues. *Id.* at 232-33. In the City of Nashville case, the gas company had challenged the franchise fee under an amendment to the revenue laws, which specifically prohibited cities from taxing utilities. *Id.* The court held that the gross receipts franchise fee was not a tax, despite the fact its main purpose was to generate revenue beyond the cost to the city, because the city had not imposed the franchise fee through its governmental capacity, but instead negotiated the fee in its proprietary capacity. *Id.*

In the *BellSouth* case, the Court of Appeals recognized that a city, acting in its proprietary capacity, can impose a franchise fee based on gross revenues. *BellSouth*, 2000 WL 122199 at * 1 (noting that, "[a]cting in its proprietary capacity, a municipality may exact a charge for the use of its rights-of-way unrelated to the cost of maintaining the rights-of-way..."). The *BellSouth* court held that it is only when a city is acting in its governmental capacity that fee must be reasonably related to the city's cost incurred as a result of the franchise. *Id*.

In *BellSouth*, the court found that the franchise fee imposed by the City of Chattanooga "must necessarily come under the City's governmental function and not its proprietary function." *Id.* at * 1. This was because Chattanooga was not attempting to enforce a franchise fee that had been established pursuant to individually negotiated contracts, but instead had enacted an ordinance that required all telecommunications providers to pay a gross receipts fee, including those which already been granted franchises by the City. Because, "[a]cting in a proprietary capacity, a municipality may not revoke or impair rights previously given by it to a third party," Chattanooga's retroactive franchise fee would necessarily come under the City's governmental power. *Id.* (noting that "[b]ecause two of the defendants hold prior franchises granted to their

predecessors, the City may not modify the franchise by imposing a fee under the City's proprietary functions."). Therefore, to be valid, Chattanooga's franchise fee had to meet the more stringent requirements imposed on cities acting through their governmental, or police powers. *Id.* at 2. Because Chattanooga was acting in its governmental capacity, the fee had to bear a reasonable relation to city's costs in allowing the utilities to use the rights-of-way. *Id.*

Unlike the retroactive franchise ordinance in *BellSouth*, UCG's proposed franchise fees are the result of individual contract negotiations with the various cities. Therefore, the franchise fees are the result of the cities' exercise of their proprietary functions, and under *Lewis v. Nashville Gas & Heating Co.*, are valid. Because the cities are acting in their proprietary, and not governmental capacity in imposing the fees on UCG, the *BellSouth* requirement that the fees be cost-based does not apply.

United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Request for Information:

6. Please provide the entire franchise agreement with the City of Bristol, Tennessee (Ordinance 95-60) as amended by Ordinance 99-13.

Response:

See attached.

AN ORDINANCE Granting to United Cities Gas Company, Its Successors and Assigns a Franchise to Construct, Maintain and Operate a System of Gas Mains, Service Pipes and Other Necessary Equipment and Facilities, for the Purpose of Transmitting and Distributing Gas In, Upon, Across, Along and Under the Highways, Streets, Avenues, Roads, Courts, Alleys, Lanes, Ways, Utility Easements, Parkways, and Public Grounds of the City of Bristol, Tennessee

BE IT ORDAINED by the City Council of the City of Bristol, Tennessee as follows:

SECTION 1. This ordinance shall be known and may be cited as the "United Cities Gas Company Franchise Ordinance".

SECTION 2. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a) City the City of Bristol, Tennessee
- b) City Manager the City Manager of the City of Bristol, Tennessee as duly appointed pursuant to Charter.
- c) Company United Cities Gas Company, an Illinois corporation, the grantee of rights under this franchise and its lawful successors or assigns.
- d) Construction the installation, laying, erection, renewal, repair, replacement, extension, removal of such activity as may be necessary to construct, maintain and operate a gas system.
- e) Council the City Council of the City of Bristol, Tennessee
- f) Gas System any pipe, pipeline, tube, main, duct, conduit, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, appliance, attachment, appurtnenace and any other personal property constructed, maintained, or operated by United Cities Gas Company as may be necessary to import, transport, distribute and sell gas.
- g) Streets the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, or other public grounds in the City as they now exist or as they may be established at any time during the term of this franchise in the City.

SECTION 3. There is hereby granted to United Cities Gas Company, for a period of twenty-five (25) years from and after approval of this ordinance, and the filing of acceptance by the Company, the right, authority, privilege, and franchise to construct, maintain and operate a gas system to import, transport, distribute and sell gas; whether natural, manufactured or mixed:

- to the City and inhabitants, institutions and businesses thereof for domestic, commercial, industrial and institutional uses and any such other purposes for which it is or may hereafter be used; and
- b) through the City to inhabitants, institutions and businesses outside the corporate boundaries for domestic, commercial, industrial and institutional uses and any such other purposes for which it is or may hereafter be used.

This ordinance shall be reviewed every five (5) years or as necessary in order to update any of the various sections herein as required.

SECTION 4. The gas system shall be constructed, maintained and operated in accordance with the best, latest and most acceptable engineering practices; Part 192 of the Code of Federal Regulations, applicable statutes of the State of Tennessee; ordinances of the City of Bristol, Tennessee; the rules and regulations of the Tennessee Public Service Commission or of any other governmental regulatory commission, board or agency having jurisdiction over the Company, as such practices and codes, statutes, ordinances, rules and regulations now exist or as they may be from time to time amended, changed or modified, and shall be so constructed as not to interfere with or injure any utility or any other public improvement which the City has heretofore made or may hereafter make in, upon, across, along or under any streets and shall not unnecessarily obstruct or impede such streets of the City and shall conform to grades and locations as then or hereafter established by the City.

SECTION 5. The Company shall not construct any gas system in, upon, along, across, under or over the streets of the City until and unless the proposed character, location and elevation of such gas system shall have been approved by the City Manager. Approval, except in the case of emergency, or as hereinafter provided, shall require the Company to do and perform each of the following:

- a) File with the City Manager a drawing or plat showing the proposed location and elevation above or below the established grade of the center line of the street or ground and the character of the system to be constructed.
- b) Make application to the City Manager in accordance with the provisions of any ordinances of the City in force and effect at the time of making such application and secure a permit therefore from the City which shall indicate the time, manner and place of constructing said system.
- c) At the option of the City, deposit with the City a cash or surety bond guaranteeing the performance of the work so to be done. The amount of this deposit shall be such amount as, in the opinion of the City Manager, is sufficient to cover such performance,

and said deposit may be held by the City until the expiration of a six (6) month warranty period covering property restoration.

In the case where the Company desires to construct service connections, which constitutes work of a minor routine and repetitive nature, the Company may apply for a single permit, guaranteed by required cash or security bond, to cover projected work schedules for a period of one (1) calendar year.

The provisions of this section shall not be applied or interpreted in such a way as to prevent or delay Company work that may be required as a result of any emergency leak or hazard or danger that jeopardizes public safety or property. Likewise the provisions of this section anticipate that the Company shall not be unreasonably denied permission to perform necessary work and that any required bond shall not be set at an unreasonable level.

If the proposed location of any system to be constructed by the Company in, upon, across, under or over the streets of the City does not interfere with (a) the use of streets for purpose of travel, (b) with any use or contemplated use of streets by the City either above or below the surface of the street for which plans have been prepared or for which plans are in the course of preparation, which plans have been authorized by the City, (c) personal property lawfully in, upon, along, across, under, or over the streets, and otherwise complies with this franchise and any ordinance, rule, or regulation of the City in force and effect at the time of such application, the City Manager shall approve such applications and a permit shall be issued therefore by the City.

Approval or disapproval of the application by the City Manager shall be accomplished within fifteen (15) days after filing with the City. If after fifteen (15) days the City Manager has failed to act, the application shall be deemed approved.

The permit shall become null and void if no significant construction and progress is made within six (6) months after issuance of the permit.

SECTION 6. The Company shall notify the City three (3) days prior to the beginning of any construction covered by the permit. The Company shall, likewise, give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the construction by other parties having jurisdiction.

The Company shall provide adequate supervision of the construction and have a responsible representative together with one (1) set of drawings at the site at all times when construction is being performed.

Inspections during construction shall be made by the City, as required, to certify compliance with the permit.

Construction shall be performed with the least practicable hindrance of the use of the streets for the purpose of travel or any other public purpose. After any work has commenced by the Company, in, upon, along, across, under, or over the streets of the City, the same shall be prosecuted in good faith and with due diligence until completed. If, as determined by the City Manager, the Company refuses or fails to prosecute the construction, or any separable part thereof, with such diligence as will insure it completion in compliance with the permit and pursuant to the provisions of this franchise, the City Manager will issue notice to the Company of his findings and instructions and, if after three (3) days the Company has not commenced to re-execute the work, the City Manager will cause the construction required in said notice to be done and performed and charge the Company the entire cost and expense plus thirty (30%) percent therefore of so completing the construction.

When any construction opening or excavation or damage is made in, along, upon, across, under or over the streets for any purpose whatsoever by the Company, any portion of said streets affected or damaged thereby shall be restored, as promptly as possible, but no later than five (5) days following completion of construction, to as useful, safe, durable, and good condition as existed prior to the making of such opening or such excavation or such damage unless the Company is unable to comply with the provisions of this section by reason of strikes, riots, acts of God, or acts of public enemies or other factors beyond the control of the Company. There is excepted from this provision restorative work of a temporary nature allowing for such requirements as trench and backfill consolidation and fine grading and vegetative stabilization. The temporary restorative work shall be accomplished immediately in accordance with best acceptable construction procedures and shall be continuously maintained in a useful and safe condition pending permanent restoration.

The Company shall keep such portion of said streets as provided in the paragraph above so restored in as useful, safe, durable, and good condition as existed prior to the making of such opening or such excavation or such damage for a period of six (6) months.

When the streets are opened, or any other construction activity is required in the streets by the Company, said Company shall place and maintain all necessary safety devices, barriers, lights, and warnings to properly notify all persons of any dangers resulting from such construction entrances. The Manual on Uniform Traffic Control Devices for Streets and Highways, as approved by the Federal Highway Administrator and as may be amended from time to time shall be the standard used in determining necessary placement of such devices, barriers, lights, and warnings.

SECTION 7. If, during the term of this franchise, it becomes necessary or expedient for the City to change the course, grade, width, or location, or improve in any way any streets, including the laying of any sewer, storm drain, conduit, water or other pipes, in which the Company has any gas system which, in the opinion of the City Manager, will interfere with such change on the part of the City, it is agreed that the Company will, at its own expense, within twenty (20) days after written notice from the City Manager and request to do so, begin the work of completing any and all things necessary to effect such change in position or location in conformity with such written instructions. It is further agreed that the Company will lend necessary and related support thereof to the City while such work is being completed or performed. Work by the Company shall be done in such a manner as to not impede the progress of the changes being made by the City; provided, however, that this section shall not be interpreted to deny the Company reimbursement as provided by State statute.

SECTION 8. The City reserves the right by ordinance at any time during the term of this franchise to require the Company at its own cost and expense to remove any or all of its mains and service lines above the surface of the streets and to place and locate the same below the surface of the streets whenever such right, in the opinion of the City Manager, should be exercised by the City. Provision does not include above ground pressure regulating stations.

SECTION 9. If the Company is dissatisfied with any determination of the City Manager permitted by the foregoing sections hereof, it may petition the City Council within ten (10) days after such determination to review the same.

SECTION 10. Nothing contained herein shall be construed as preventing the Company from installing, placing, replacing, taking up, repairing or removing any portion of the gas system; from using any easements for the gas system which are

shown on any plat or plats of any portion of the City heretofore or hereafter platted or recorded, or any easement which may hereafter be created, granted, or dedicated for any such purposes by any person, firm or corporation whatsoever. The above shall be coordinated with the City through procedures outlined heretofor in order to facilitate these operations and to avoid conflicts with other utilities as well as other interested parties.

SECTION 11. All rights herein granted and/or authorized shall be subject to and governed by this ordinance, provided, however, the governing body of the City expressly reserves unto itself all its police power to adopt general ordinances and take other action necessary to protect and promote the safety and welfare of the general public in relation to the rights now reserved to or in the City of Bristol under its Charter and to all such rights as are now provided by general law.

SECTION 12. The Company shall at all times defend, indemnify and hold harmless the City and any of the City's representatives from and against all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever resulting from the failure of the Company or its employees to exercise due care and diligence in the construction, operation, and maintenance of its gas system in the City of Bristol, provided the Company shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend same. The right of indemnification shall include and extend to reasonable attorney fees and trial preparation expenses and other litigation expenses reasonably incurred in defending a claim arising from the operation of the gas system by the Company, whether or not the claim later be proved to be without merit.

The Company hereby agrees, upon official request of the City, to furnish to the City evidence of insurance in such amounts as may be reasonably necessary to protect the City.

SECTION 13. The Company shall pay to the City during the term of this franchise an amount equal to two and one-half percent (2½) of its annual gross revenues from the sale of the Company's manufactured, natural or co-mingled gas or other gas sold within the City through the system. Nothing contained herein shall prevent the City from increasing or otherwise modifying the fee after adoption of this ordinance. Said franchise fee shall be payable each year, such payment to be made on or before March 1 of each year so long as the Company shall supply and sell natural gas to the public within said City or so long as this franchise is in effect. In the event said Company shall fail to pay said sum so stipulated, then the City reserves the right to revoke this franchise if said amount that is due and payable is not paid within a period of sixty (60) days after written notice of such delinquency to Company.

The City shall have access at all reasonable times to the books of the Company for the purpose of ascertaining the amount of fee due the City. The Company shall furnish to the City a report showing the amount of gross revenues from its sale of gas within the City annually. The franchise fee imposed herein shall be effective from and after the adoption of this ordinance and acceptance by the Company.

Subject to the approval of the Tennessee Public Service Commission, said franchise fee provided for herein may be renegotiated from time to time during the term of this franchise, but in no event shall said fee be set higher than five percent (5%). Provided further that parties may negotiate a different basis for determining the amount of said fee, to wit, the parties may agree that said fee should be based upon volume sold as opposed to gross revenues.

SECTION 14. In the event the Company desires to sell or transfer the entire assets of the gas business which is the subject of this ordinance, then the Company must offer to the City the opportunity to buy those assets located and situated in the City of Bristol upon the same terms as being offered to some other party. The City will have sixty (60) days to accept the offer and an additional sixty (60) days to close said transaction, in the event the City elects to exercise the option to purchase.

In the event the City chooses not to exercise the option to purchase, the City shall continue to have the right to approve any sale, assignment, or transfer that Company may desire and this franchise cannot be sold, assigned, or transferred without the express written consent of the City Council, provided, however, that such consent shall not be unreasonably withheld.

In any negotiations between the City and the Company for the purchase of the Company's property by the City, no value shall be placed upon this franchise by the grantee in arriving at the purchase price.

SECTION 15. The City and the Company hereby agree that this ordinance is subject to the approval of the Public Service Commission for the State of Tennessee and that the ordinance shall also be subject to the rules and regulations of the Commission as they may from time to time be changed and that all such rules and regulations shall be and become part of this ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full.

The Company shall make every reasonable effort to furnish an ample and uninterrupted supply of gas to all customers throughout its entire system within the City and on any enlargements and extensions thereof within the City. The Company shall not unreasonably or arbitrarily refuse to make an extension for the purpose of giving gas service to the City, the inhabitants, institutions and businesses thereof. The Company shall also file with the City its extension policy and any changes as may from time to time be adopted, as filed with and approved by the Public Service Commission.

Furthermore, the Company will at all times keep the City Manager apprised of its current gas rates, charges, and pricing policies charged to City residents and changes to such rates, charges, and pricing policies whether changes are initiated by the Company or by a third party. In the event the Company files a rate change request with the Public Service Commission, it shall provide the City Manager with a copy of the request at the time of the filing.

During such time, if any, as there shall be no other duly constituted governmental authority having jurisdiction over the tariffs, rates, fixed charges, terms and conditions of service to be rendered by the Company, then the City Council of the City of Bristol, Tennessee shall have jurisdiction to prescribe and fix by ordinance tariffs, rates, charges, terms and conditions governing the furnishing of said gas service which shall be sufficient to yield the Company a reasonable return upon the fair value of its property used and useful in rendering said service.

SECTION 16. The grantee shall file with the City Manager a duplicate original of the Annual Report of the grantee's operations in the City filed with the Public Service Commission of the State of Tennessee or its successors in authority, as now required by the Public Utility Act, or as may be required by any other act of the legislature of the State of Tennessee, as soon as practicable after one duplicate original of said report has been filed with said Commission or its succesors in authority, which report shall set forth the grantee's complete operation in the City.

SECTION 17. Any flagrant or continuing violation of the provisions of this franchise agreement by the Company or its successors shall be cause for forfeiture of this Franchise Agreement, provided that the City shall have given the Company written notification of such violations and allows the Company a reasonable and appropriate time schedule as determined by the City Manager to correct the cited

SECTION 18. After adoption of this ordinance, should any section, subsection, sentence, provision, clause or phrase of this ordinance be declared by the Public Service Commission or by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional, it being the intent in adopting this ordinance that no portion thereof or provision or regulation contained therein shall become inoperative or fail by reason of the unconstitutionality or in validity of any other portion or provision or regulation.

SECTION 19. The Company shall within sixty (60) days after the passage of this ordinance file with the City Recorder of the City of Bristol its unconditional acceptance of the terms and conditions of this ordinance, signed by its president, and, after the filing of such acceptance, this ordinance shall constitute a contract between the parties hereto and shall (subject to the rights and powers vested in and orders lawfully issued by the State of Tennessee Public Service Commission or such other regulatory body of the State of Tennessee as may hereafter succeed to the rights and powers of the State of Tennessee Public Service Commission or as may exercise statutory jurisdiction of gas companies furnishing gas service in the State of Tennessee) be the measure of the rights, powers, obligations, privileges, and liabilities of the City and of the Company. Furthermore, a copy of the written approval of the Public Service Commission shall be furnished to the City Recorder by the Company and a copy of the same filed with this franchise ordinance.

SECTION 20. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 21. This ordinance shall become effective seventeen days from and after its final passage, the welfare of the City requiring it.

Challe Sete

Passed 1st reading 2/1/83Passed 2nd reading 3/1/83

ACCEPTANCE OF FRANCHISE

In accordance with the terms and conditions of that certain Ordinance entitled "United Cities Gas Company Franchise Ordinance" enacted March 1, 1983 by the City Council of the City of Bristol, Tennessee, granting a franchise to operate a Gas System within the City of Bristol, Tennessee, this will serve, pursuant to Section 19 thereof, as the Unconditional Acceptance of all the terms and conditions contained in said Ordinance by the Grantee, United Cities Gas Company.

Signed this 8th day of March, 1983.

President

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Clarde Aletonson Secretary

RECEIPT

March 17, 1983

I, N. J. Sparger , City Recorder of Bristol, Tennessee, hereby acknowledge receipt of the Acceptance of United Cities Gas Company accepting the franchise ordinance of the City of Bristol, Tennessee, the same adopted on March 1, 1983, and entitled: "AN ORDINANCE GRANTING TO UNITED CITIES GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A SYSTEM OF GAS MAINS, SERVICE PIPES AND OTHER NECESSARY EQUIPMENT AND FACILITIES, FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG, AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF BRISTOL, TENNESSEE".

IN WITNESS WHEREOF, I N. J. Sparger , City Recorder of Bristol, Tennessee, have affixed my hand to said receipt as such City Recorder together with the Seal of the City of Bristol, Tennessee.

Aty Recorder Fristol, Tennessee

United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Request for Information:

7. Please provide the names of all negotiators involved in each of the proposed franchise agreements.

Response:

Negotiators for each of the franchise agreements are as follows:

Bristol: Jim Pugh - Operations Supervisor

Tom Blose - President

Bobby Cox - Operations Manager Bob Elam - VP - Eastern Region

Kingsport: Jim Pugh

Bobby Cox Bob Elam

Joe Conner - Outside Counsel

Morristown: Tony Hughes - Operations Supervisor

John Collins - Operations Manager

Bob Elam Tom Blose Joe Conner

Maury County: Denise Manning- Manager of Public Affairs

United Cities Gas ("UCG") Petition for approval of new or revised franchise agreements with Kingsport, Bristol, Morristown, and Maury County

Request for Information:

8. Please provide the amounts (if any) of franchise fees that have been collected under each of the proposed agreements.

Response:

Maury County - None

Kingsport - None

Morristown - Since 1/4/00, \$330,201.40 has been collected. The rate for Morristown beginning on 1/4/00 is 5%. This was not an increased over the previously existing rate, therefore the \$330,201.40 is NOT an increase to the Morristown customers.

Bristol - Since 11/8/99, \$306,592.15 has been collected. Bristol increased its rate from 5% to 6% on 11/8/99. Therefore, the incremental change beginning on 11/8/99 is less than the total \$306,592.15 collected.